

THE HONORABLE ROBERT J. BRYAN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

THE CITY OF TACOMA, a municipal  
corporation,

Plaintiff,

v.

GREAT AMERICAN INSURANCE  
COMPANIES, an Ohio corporation, et al.,

Defendants.

NO. C97-5504 RJB

STIPULATED PROTECTIVE ORDER

The parties to this action stipulate to the following Protective Order to apply to certain documents and information generated in the Thea Foss Arbitration as more particularly described below.

PROCEDURES AND DEFINITIONS

1. Confidential Information and Reasons for Confidentiality

For purposes of this Order, "Confidential Information" means all information or documents relating to the signatories of Thea Foss Arbitration Agreement that was submitted by or to the arbitrators of the "Thea Foss Arbitration" other than those documents or portions of documents relating solely to the City of Tacoma. The "Thea Foss Arbitration" is that claim resolution process created by the Thea Foss Arbitration Agreement dated April 1, 1998, as

1 amended. The confidentiality of all Confidential Information shall be maintained by the  
 2 parties herein, and such information shall not be disclosed except as set forth in ¶2 below.  
 3 “Confidential Information” does not include matters of public record, however, and  
 4 information otherwise obtained by the parties in this case by investigation or discovery does  
 5 not become confidential solely because it was submitted in the Thea Foss Arbitration.

6 The confidentiality of the information or documents that are the subject of this  
 7 Protective Order shall be maintained because the confidential nature of the arbitration and  
 8 mediation process conducted pursuant to the Thea Foss Arbitration Agreement was a material  
 9 factor in the decision of the signatories to participate in the “Thea Foss Arbitration,” and  
 10 maintaining the confidentiality of the documents and information generated in the “Thea Foss  
 11 Arbitration” furthers the public interest served by encouraging the parties to participate in  
 12 arbitrations and mediation of complex, contested claims such as those addressed by the Thea  
 13 Foss Arbitration.

14 2. Access to Confidential Information

15 Confidential Information will not be disclosed to or used by anyone except the  
 16 following persons, and will be disclosed to or used by these persons solely for purposes of  
 17 this litigation:

- 18 a. The Parties and their officers, directors, employees and representatives who  
 19 have need for such information for purposes of this litigation;
- 20 b. Outside counsel for the parties and their employees necessarily involved in the  
 21 conduct of this litigation;
- 22 c. Experts and consultants retained by any of the Parties who have a need for  
 23 such information to assist in this litigation; and
- 24 d. During deposition or trial, to any deposition or trial witness where necessary to  
 25 the testimony of such witness.

1           3.     Notice of Order

2           Prior to receiving, being shown or using Confidential Information, persons falling in  
3 the categories listed above shall be shown a copy of this Stipulated Protective Order, and shall  
4 agree in writing, or verbally on the record during deposition or trial, to be bound by its terms.

5           4.     Use at Depositions

6           Disclosure of Confidential Information to any witness, and testimony by any witness  
7 at a deposition relating to Confidential Information, shall not constitute a waiver of  
8 confidentiality. That portion of a deposition which contains any questions or answers  
9 regarding Confidential Information, or any deposition exhibit containing Confidential  
10 Information, shall be designated as Confidential Information subject to this Order. Under such  
11 circumstances, the witness shall be asked to sign the original deposition transcript in the  
12 presence of the court reporter, and no copy of the transcript or related exhibits shall be given  
13 to the deponent.

14          5.     Filing Under Seal

15          All documents filed with the Court that contain Confidential Information as described  
16 in ¶1 shall be filed under seal, with the filing party responsible for arranging with the Court  
17 Clerk the procedures acceptable to the Clerk's office and sufficient to maintain the  
18 confidentiality of the documents which are the subject of this Order.

19          6.     Return of Documents

20          Upon completion of this litigation, and if requested by the producing party, the  
21 original and all copies of all documents produced during discovery, all interrogatory answers,  
22 and all deposition transcripts containing Confidential Information shall be returned to counsel  
23 for the producing party or destroyed, with the non-producing parties to provide to counsel for  
24 the producing party a certificate reflecting such disposition.  
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This Stipulated Protective Order is without prejudice to the right of any interested party to apply to the Court for an Order permitting the disclosure of any Confidential Information or to apply for an Order modifying or limiting this Stipulated Protective Order in any respect. Such application shall be by motion with not less than two weeks notice of the motion. In any event, the Court herein may change the terms of this Protective Order after notice to the parties and an opportunity to be heard.

DATED this 14<sup>th</sup> day of April, 2005.

Robert H Bryan

Robert J. Bryan  
United States District Judge

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3 of North America:  
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CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on this 13<sup>th</sup> day of April, 2005, I electronically filed the foregoing Stipulated Protective Order with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys participating in the CM/ECF system, and I hereby certify that I deposited postage-prepaid courtesy copies with the United States Postal Service directed to all participants as follows:

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